



California Fair Political Practices Commission

March 22, 1989

Donald M. Schinnerer, D.D.S.
Donald M. Schinnerer, D.D.S., Inc.
and Associates
9301 Fircrest Lane, Suite 7
San Ramon, CA 94583

Re: Your Request for Advice
Our File No. A-89-095

Dear Dr. Schinnerer:

This is to confirm our telephone conversations concerning your reporting obligations under the conflict of interest provisions of the Political Reform Act (the "Act").^{1/}

QUESTION

Is a loan from your corporation's pension trust made to a local non-profit child care organization reportable on your or your spouse's statement of economic interests?

CONCLUSION

You are not required to report on a statement of economic interest any loans made. However, loan payments received may be reportable as income.

FACTS

You and your spouse both hold public offices and are required to file statements of economic interests. You are a director of a special service district and are required to complete the Form 730 and your spouse is a city council member and is required to complete the Form 721.

^{1/}Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

Your concern centers around a \$20,000 loan from your dental corporation's pension trust to a local non-profit child care organization. The loan was originally set at a 9.5% interest rate for 36 months but was paid off on January 31, 1989, at zero interest.

ANALYSIS

The Act does not require an official to disclose loans made to others on a statement of economic interests.

However, the Act does require the disclosure of income and defines income to mean:

(a) a payment received, including but not limited to any salary, wage, advance, dividend, interest, rent, proceeds from any sale, gift, including any gift of food or beverage, loan, forgiveness or payment of indebtedness received by the filer, reimbursement for expenses, per diem, or contribution to an insurance or pension program paid by a person other than an employer, and including any community property interest in the income of a spouse. Income also includes an outstanding loan. Income of an individual also includes a pro rata share of any income of any business entity or trust in which the individual or spouse owns, directly, indirectly or beneficially, a 10-percent interest or greater"

(Section 82020(a), emphasis added.)

As a member of the city council, your spouse must report any source of income located in or doing business in her jurisdiction (the city). Under Government Code Section 82034, a business entity is located in or doing business in the jurisdiction if it, a parent or subsidiary, or related business entity:

- o Manufactures, distributes or sells products or services on a regular basis in the jurisdiction; or
- o Plans to do business in the jurisdiction; or
- o Has done business in the jurisdiction within the previous two years; or
- o Has an interest in real property in the jurisdiction; or
- o Has offices in the jurisdiction.

As a designated employee covered by a conflict of interest code, you should review your disclosure category to determine the sources of income, if any, you are required to disclose.

Donald M. Schinnerer, D.D.S.
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If received from a source which is reportable under your spouse's disclosure obligations, or under your disclosure category, income from the repayment of a loan is reported on Schedule D of the Form 721 and Form 730.

In addition, you may also be required to report the local non-profit child care organization as a source of income to the trust if your pro-rata share of the income from the organization is \$10,000 or more in a calendar year. Sources of income to the trust are reported on Schedule H-2 of the Form 721 and Form 730.

If you have any questions regarding this advice, please call me at (916) 322-5662.

Sincerely,

Diane M. Griffiths
General Counsel



By: Linda K. Moureaux
Political Reform Consultant

DMG:LKM:eb

**Donald M. Schinnerer, D.D.S., Inc.
and Associates**

9301 Fircrest Lane, Suite 7

San Ramon, CA 94583

(415) 828-5335

February 6, 1989

Feb 7 8 29 AM '89

Ms. Linda Moreau
Fair Political Practices Commission
P.O. Box 807
Sacramento, CA 95804-0807

RE: Reportable Loan

Dear Ms. Moreau:

As per our telephone conversations on February 1st & 6th, 1989, I am requesting written confirmation of your comments.

To restate the facts, my wife and I both hold public office. My wife as a city council member and myself as a director of a special services district. Our concern centers around a \$20,000 loan from our corporation's pension trust to a local non-profit child care organization. The loan was originally set a 9.5% interest rate for 36 months but was paid off on January 31, 1989 at zero interest.

I would appreciate written confirmation of your verbal comments that the loan was not reportable on Forms 721 or 730.

Thank you in advance for your attention to my request.

Sincerely,



Donald M. Schinnerer, D.D.S.

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and Associates**

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San Ramon, CA 94583
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Sincerely,



Donald M. Schinnerer, D.D.S.



California Fair Political Practices Commission

February 14, 1989

Donald M. Schinnerer, D.D.S.
Donald M. Schinnerer, D.D.S., Inc.
and Associates
9301 Fircrest Lane, Suite 7
San Ramon, CA 94583

Re: Letter No. 89-095

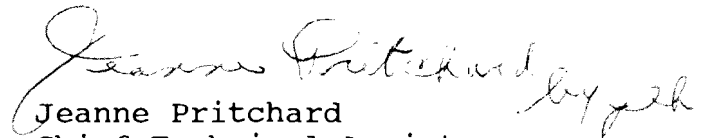
Dear Dr. Schinnerer:

Your letter requesting advice under the Political Reform Act was received on February 9, 1989 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact me directly at (916) 322-5662.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or more information is needed, you should expect a response within 21 working days if your request seeks formal written advice. If more information is needed, the person assigned to prepare a response to your request will contact you shortly to advise you as to the information needed. If your request is for informal assistance, we will answer it as quickly as we can. (See Commission Regulation 18329 (2 Cal. Code of Regs. Sec. 18329).)

You also should be aware that your letter and our response are public records which may be disclosed to the public upon receipt of a proper request for disclosure.

Very truly yours,


Jeanne Pritchard
Chief Technical Assistance
and Analysis Division

JP:plh